

## **REMARKS**

In the Office Action, mailed November 9, 2006, claim 11 was withdrawn by the Examiner; claims 1-10 were rejected under 35 U.S.C. 112, second paragraph; and claims 1-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over to Park et al. (EP 1 382 254 A1) in view of Kean (U.S. Patent No. 3,812,776).

None of the claims have been amended herein.

Claim 11 recites features somewhat similar to those recited in claim 1. Thus, claim 11 is not drawn to an invention distinct from that as recited in claim 1. Thus, the Applicant request that the Examiner reconsider claim 11.

Claims 1-11 are pending and under consideration. Reconsideration is respectfully requested.

### **Regarding the 112 rejection:**

Specifically, at page 2 of the Office Action, the Examiner asserts that it is not clear how the adjusting member moves in a transverse direction.

Support for features of claim 1 can be found at paragraphs [0028] and [0029] of the specification.

### **Regarding the 103 rejections:**

At page 3 of the Office Action, the Examiner admits that Park fails to discuss the Applicants “adjusting member” as recited in claim 1, for example. However, the Examiner asserts that Kean makes up for the deficiency of Park. The Applicants respectfully disagree with the Examiner.

None of the foregoing references, individually or combined, discuss “wherein a screw hole communicated with the plurality of guide grooves is formed at one end of each of the tray holder members and an adjusting member moving the movable tray member is connected with the screw hole, and the adjusting member moves in a transverse direction towards the slit, such that the movable tray member and the respective combining projections move towards the transverse direction of the slit, to thereby adjust a width of the slit,” as recited in claim 1, for example.

In contrast, Park merely discusses a bread maker having a main body and kneading drums located at an upper part and lower part in a baking space of the bread maker. A fixed tray member and a movable tray member having a plurality of combining projections at opposite side

walls thereof. The fixed tray member positioned opposite the movable tray member forms a slit (see Abstract). A tray holder is coupled to each end of the fixed tray member and has a plurality of guide grooves 42 shown in FIG. 4A accommodating the combining projections **to rotatably support the movable tray member**. That is, the movable tray member 33 is rotatably supported, it is **not moving in a transverse direction towards the slit** (see FIG. 4A).

In contrast, Kean discusses a two-piece rotary spit for barbecuing roasts and fowl (see Abstract and FIG. 1). The rotary spit includes a rod section having a handle on an outer end and a binder screw 48 to secure a slidable bearing member 40 in adjusted axial positions along the rod section 34 (see column 2, lines 33-51). In addition, binder screws 58 are provided for engagement of axial members 28 (see column 3, lines 29-30).

Again, the Applicants respectfully submit that Kean is not related to a bread maker. Thus, there is no motivation to combine Kean with Park et al. Further, the binder screws 48, 58 of Kean are not comparable to the Applicants' "adjusting member" as recited in amended claim 1, for example. That is, the binder screw 48 is used to merely adjust the slidable bearing member 40, and the binder screws 58 merely provide adjustable connection in an axial direction. Thus, the Applicants respectfully traverse the Examiner's assertion of obviousness and request that the Examiner withdraw the Kean reference.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or discuss all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See M.P.E.P. § 2142.

Further, the test for obviousness is what the combined teachings of the references would have suggested to one of ordinary skill in the art without the use of impermissible hindsight knowledge. As set forth in *Ecolochem, Inc. v. Southern California Edison*, 227 F.3d 1361, 1375, 56 USPQ2d 1065, 1075 (Fed. Cir. 2000):

"[T]he suggestion to combine may be found in explicit or implicit teachings within the references themselves, from the ordinary knowledge of those skilled in the art, or from the nature of the problem to be solved." ... However, there still must be evidence that "a skilled artisan, confronted with the same problems as the inventor and with no knowledge of

the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed." ... "[A] rejection cannot be predicated on the mere identification ... of individual components of claimed limitations. Rather particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed."

Therefore, the combination of the foregoing references fails to provide a prima facie case of obviousness over the present invention.

Thus, withdrawal of the rejection is respectfully requested.

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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